IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 4784 of 2005

Tukaram Gourya Ladge ... Petitioner
vs.
State of Maharashtra and ors. ..... Respondents

Mr. R. K. Mendadkar for Petitioner
Mr. C. R. Sonawane, AGP for Respondent

CORAM: **F. I. REBELLO & ROSHAN DALVI JJ.**
Date: 29/11/2005

P.C.

Rule. Heard forthwith.

1. The Petitioner had approached this court earlier against the rejection of his caste claim by writ petition No. 7510 of 2002. The learned Bench of this court by Order dated 6.12.2004 was pleased to set aside the order and remand the matter back to the Committee.
2. On remand the Committee once again by order dated 21st May 2005 rejected the Petitioner's tribe claim and consequently the present petition was filed.
3. At the hearing of this petition on behalf of the Petitioner learned counsel firstly contends that no hearing was given to him to appear before the Committee as directed by this court. This averment in the petition has remained un-controverted. It is secondly

contended that even considering para 6 of the order of the Tribunal, the two documents which were earlier to presidential notification, ought to have been verified by the Committee and could not have been rejected, without considering the authenticity of the said documents. Even if there there will be two sets of documents the committee was bound to consider the same before arriving at a conclusion.

4. It is also submitted that the other documents though may be not of pre- presidential notification yet could have been considered as they were documents of the Petitioner's relative and mainly on the paternal side.

5. Having heard the learned counsel we are of the opinion that the impugned order dated 21st May 2005 cannot be sustained. The Committee must realize that it is the last fact finding authority against whose orders there is no challenge except by way of writ petition before this court. In these circumstances an onerous duty lies on the Committee to give a fair opportunity and to consider all documentary evidence. In the instant case there were two documents showing that two of the relatives of the Petitioner had entries as Hindu Koli and admittedly there is one document of the same period showing the entry as Hindu Malhar Koli. These documents could not have been brushed aside without having referred to vigilance enquiry. The

Committee was bound to decide the tribe, caste and other characteristics of the Petitioner.

6. In the circumstances we direct the Committee to give an opportunity of hearing to the Petitioner and also comply with the directions as earlier set out in the body of this order. Rule made absolute accordingly. No order as to costs. The Committee to complete the proceedings within 6 months from today. The Petitioner to appear before the Committee for further directions on 8th December 2005 at 11 a.m.

With the above observations this petition stands disposed of.

(F. I. REBELLO J.)

(ROSHAN DALVI J.)